

✓  
**FILED**  
5 O'Clock P.M.  
JUL 05 2011

SANDRA K. MARKHAM, Clerk  
By *Stephanie Kling*

1 YAVAPAI COUNTY ATTORNEY'S OFFICE  
2 Bill R. Hughes, SBN 019139  
3 Deputy County Attorney  
4 255 E. Gurley Street, 3rd Fl.  
5 Prescott, AZ 86301  
6 (928) 771-3344  
7 ycao@co.yavapai.az.us

8 **IN THE SUPERIOR COURT**

9 **STATE OF ARIZONA, COUNTY OF YAVAPAI**

10 **STATE OF ARIZONA,**

V1300CR201080049

11 Plaintiff,

12 vs.

**State's Objection to Defendant's Request  
for Extension of Time to File Post-Trial Motions**

13 **JAMES ARTHUR RAY,**

(The Honorable Warren Darrow)

14 Defendant.

15  
16 The State of Arizona, by and through Sheila Polk, Yavapai County Attorney, respectfully  
17 requests this Court deny Defendant's Request for Extension of Time to File Post-Trial Motions.  
18 The time limits of Rule 24.1, Ariz.R.Crim.P., are jurisdictional and motions filed after the 10-  
19 day limit have no effect. *See Maule v. Arizona Superior Court*, 142 Ariz. 512, 514-515, 690 P.2d  
20 813, 815-816 (App. 1984); *State v. Wagstaff*, 161 Ariz. 66, 70, 775 P.2d 1130, 1134 (App.  
21 1988); *State v. Hill*, 85 Ariz. 49, 330 P.2d 1088 (1958). *Maule* explained that Rule 24.1 was  
22 found to be jurisdictional because of Rule 24.1's analogy to Rule 6(b), Ariz.R.Civ.P., which  
23 imposes jurisdictional time limits. Accordingly, Defendant's request as it relates to extending  
24  
25  
26

1 the deadline for a motion for new trial under Rule 24.1, Ariz. R. Crim. P., must be denied.

2 *Maule, supra.*

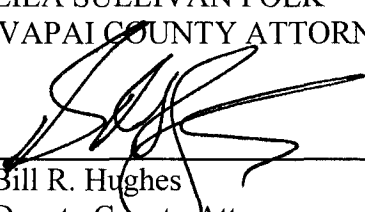
3         The undersigned was unable to find any Arizona case dealing with the issue of whether  
4 the time limit set forth in Rule 20(b), Ariz.R.Crim.P., may be extended. Accordingly, in  
5 deciding whether it may extend Rule 20's time limits, the court should look to analogous  
6 provisions of the Rules of Civil Procedure to determine whether Rule 24.1's time limit is  
7 jurisdictional.  
8

9         The language of Rule 20(b) is analogous to the language of Rule 50(b), Ariz.R.Civ.P.  
10 Arizona's Supreme Court has ruled that Rule 50(b)'s time limits must be strictly applied and  
11 may not be enlarged. *Welch v. McClure*, 123 Ariz. 161, 163, 598 P.2d 980, 982 (1979); *accord*  
12 *Matter of Balcomb's Estate*, 114 Ariz. 519, 521, 562 P.2d 399, 401 (App. 1977. Accordingly,  
13 this court should find that Rule 20(b)'s time limit is may not be enlarged, and should deny the  
14 motion to extend the deadline.  
15

16         Moreover, such a finding is consistent with the public policy underlying the Arizona  
17 Rules of Criminal Procedure. The Rules of Criminal Procedure and the time limitations set forth  
18 therein "are intended to provide for the just, *speedy* determination of every criminal procedure."  
19 Rule 1.2, Ariz. R. Crim. P. (emphasis added). Moreover, Article II section 2.1(10) of Arizona's  
20 Constitution ensures victims the right to a speedy trial and a prompt and final conclusion of the  
21 case after conviction and sentence. Defendant's proposed briefing schedule will delay further  
22 proceedings and deny the victims' constitutional right to a speedy trial and disposition of this  
23 case. Defendant's request for an extension of time to file post-trial motions should be denied.  
24  
25  
26

1 Respectfully submitted this 5<sup>th</sup> day of July, 2011.

2  
3 SHEILA SULLIVAN POLK  
YAVAPAI COUNTY ATTORNEY

4  
5 By   
6 Bill R. Hughes  
Deputy County Attorney

7  
8  
9  
10 **COPIES** of the foregoing emailed this  
5 day of July, 2011:

11 Hon. Warren Darrow  
12 Dtroxell@courts.az.gov

13 Thomas Kelly  
14 tkkelly@thomaskellypc.com

15 Truc Do  
16 Tru.Do@mto.com

17  
18 By: 

**COPIES** of the foregoing delivered this  
5 day of July, 2011, to

Thomas Kelly  
Via courthouse mailbox

Truc Do  
Munger, Tolles & Olson LLP  
355 S. Grand Avenue, 35<sup>th</sup> Floor  
Los Angeles, CA 90071-1560

19  
20  
21  
22  
23  
24  
25  
26  
By: 